

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE:	Clarence H. Cole)	
	Dist. 4, Map 53A, Group D, Control Map 37P,)	Sullivan County
	Parcel 6.00, S.I. 000)	
	Residential Property)	
	Tax Year 2005)	

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$20,100	\$76,800	\$96,900	\$24,225

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on April 12, 2006 in Blountville, Tennessee. In attendance at the hearing were Clarence Cole, Rita Jo Cole, and Sullivan County Property Assessor's representative, Glendora Maines.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a 1.71 acre tract improved with a single family residence constructed in 1979 located at 700 Santa Fe Drive in Bristol, Tennessee. Of the 1.71 acres, a total of 1.27 acres is located in the floodplain.

The taxpayer contended that subject property should be valued at \$90,000. In support of this position, the taxpayer argued that the portion of subject tract in the floodplain has minimal value because it cannot be used as a building site and essentially constitutes an extension of the yard. The taxpayer objected to the fact that the 2005 reappraisal program resulted in the application of an 80% condition factor rather than a 50% condition factor as in previous years.¹

The assessor contended that subject property should be valued at \$91,900. In support of this position, the assessor introduced a valuation analysis prepared by the recently retired reappraisal coordinator, Rudy Brown. Mr. Brown's analysis essentially consisted of a number of sales he maintained support a value of \$98,100. In addition, Mr. Brown asserted that the prior 50% condition factor was an error to the extent it was applied to all 1.71 acres rather than the 1.27 acres in the floodplain.

Notwithstanding the foregoing, Ms. Maines recommended depreciating subject residence an additional 5% due to the proximity of a neighbor's garage. This adjustment results in a value of \$91,900.

¹ These condition factors were applied to the entire tract.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values"

General appraisal principles require that the market, cost and income approaches to value be used whenever possible. Appraisal Institute, *The Appraisal of Real Estate* at 50 and 62. (12th ed. 2001). However, certain approaches to value may be more meaningful than others with respect to a specific type of property and such is noted in the correlation of value indicators to determine the final value estimate. The value indicators must be judged in three categories: (1) the amount and reliability of the data collected in each approach; (2) the inherent strengths and weaknesses of each approach; and (3) the relevance of each approach to the subject of the appraisal. *Id.* at 597-603.

The value to be determined in the present case is market value. A generally accepted definition of market value for ad valorem tax purposes is that it is the most probable price expressed in terms of money that a property would bring if exposed for sale in the open market in an arm's length transaction between a willing seller and a willing buyer, both of whom are knowledgeable concerning all the uses to which it is adapted and for which it is capable of being used. *Id.* at 21-22.

The administrative judge finds that the parties' contentions of value differ by a relatively insignificant 2%. The administrative judge finds that the methodology used to value subject land appears to constitute the real area of disagreement. For the reasons discussed immediately below, the administrative judge finds that the preponderance of the evidence supports adoption of a value of \$90,600 with \$15,800 allocated to the land and \$74,800 to the improvements.

The administrative judge finds that the fair market value of subject property as of January 1, 2005 constitutes the relevant issue. The administrative judge finds that a variety of methodologies can be utilized to establish market value. The administrative judge finds that the assessor is not bound to use his pre-reappraisal methodology in perpetuity.

Since the taxpayer is appealing from the determination of the Sullivan County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that the taxpayer offered proof to show that the portion of subject tract in the floodplain does indeed flood on a regular basis. However, the administrative judge finds that the taxpayer did not introduce any sales to establish the value of subject land or the property as a whole.

The administrative judge finds that the portion of subject tract in the floodplain obviously has less value than the .44 acres outside the floodplain. However, the administrative judge finds that a potential buyer would not necessarily separately value the two components in arriving at an estimate of value. Ironically, the administrative judge finds that the preponderance of the evidence supports the \$15,800 land value recommended by the Sullivan County Board of Equalization.²

The administrative judge finds that the proximity of the neighbor's garage to the taxpayer's home also causes a diminution in value. Given the previously discussed adjustment to subject land, the administrative judge finds subject residence should be depreciated an additional 2% which results in a total improvement value of \$74,800 after rounding.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2005:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$15,800	\$74,800	\$90,600	\$22,650

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:


1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or

² The taxpayer apparently declined the local board's “offer” to appraise the land by assuming a unit land price of \$14,671.35 per acre and 63% condition factor for the tract as a whole.

3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 20th day of April, 2006.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c; Mr. Clarence H. Cole
Bob Icenhour, Assessor of Property